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10/788,737	02/26/2004	William C. Livesay		6107

7590 02/03/2005  
Robert E. Howard  
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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/788,737

Applicant(s)

LIVESAY ET AL.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,5-13 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 4 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. In reply to an election requirement mailed on 10/14/04, Applicants have elected Species III, figs. 6A,6B,6C,7-9. Applicants believe that claims readable on Species III are 9,10,12,13,14,15,17. However, the Examiner does not believe claims 9,10,12,13, & 17 read on Species III, figs. 6A,6B,6C,7-9, for the following reason:

For claim 9, which depends on claim 8, claim 8 claims "said inelastic locking strap member having outer and inner inelastic strap portions that are releasably attached to each other", which is not shown in figs. 6A,6B,6C,7-9. The inelastic locking strap member 256 appeared to be only one element connected to the second end of the handle 212; therefore, there are no outer and/or inner inelastic strap portion that are releasably attached to each other. Therefore, it is concluded that claims 8-10 are not of species III.

For claim 12, which depends on claim 11, claim 11 claims "an inelastic locking strap member extending between and attached to the same buckles or dog collar attachment means as said elastic strap portion, said inelastic locking strap member having outer and inner inelastic strap portions that are releasably attached to each other". First of all, the locking strap member 256 only attached to the elastic strap portion by one buckle 224 and not buckles. Second, the locking strap member 256 attached to the same dog collar attachment means 240 as the strap portion 220 is not true because the strap portion 220 does not even attached to the dog attachment means, according to Species III. Third, the locking strap member 256 of Species III

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does not have portions that are releasably attached to each other. This appeared to be fig. 3A of Species II.

For claim 13, claim 13 claims "said second end of said handle forming an inelastic locking strap member extending through said outer buckle and releasably attached at its inner end to said inner buckle", which is not shown in Species III. The second end (at ref. 254a) of the handle 212 in Species III releasably attached to releasable buckle 254b of strap member 256 and not inner buckle 224. Therefore, claim 13 is not Species III.

For claim 17, claim 17 claims "an elastic first strap portion having an outer and inner end, said elastic first strap portion being attached at its outer end to said outer buckle and attached at its inner end to a dog collar attachment means", which is not shown in Species III. The elastic strap portion 220 is connected to the outer buckle 214 but not connected at its inner end to a dog collar attachment means 240. The inner end of the strap portion 220 is connected to inner buckle 224. Even if Applicants meant the elastic first strap portion is ref. 230, which is attached to the dog collar means 240, but not attached to the outer buckle 214 whatsoever. Therefore, claim 17 is not Species III.

As for claims 2,5-7, these claims are not readable on Species III, for they appear to be readable on Species II, figs. 3A-C,5.

In conclusion, only claims 1,3,4,14-16, are readable on Species III. Claims 2,5-13,17 have been withdrawn from consideration based on a non-elected species.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 1 & 14 are objected to because of the following informalities: In claim 1, the phrase "an outer and inner end" should be changed to ---outer and inner ends--- or ---an outer end and an inner end---. In claim 14, line 12, "portion" should be changed to ---member--- to be consistent. Note, changes should be made, if applicable, to the dependent claims of claims 1 & 14. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1,3,4** are rejected under 35 U.S.C. 103(a) as being unpatentable over McPhail (US 5146876) in view of Moulton, III (US 6626131).

For claims 1 & 4, McPhail teaches a dog leash comprising a handle 12; an outer ring 14 attached to the handle; a first elastic strap portion 24 having outer and inner ends and attached at its outer end 15A to the outer ring 14 and attached at its inner end 15B to an inner ring 22; a second inelastic strap portion 28 having outer and inner ends and attached at its outer end 17 to the inner ring 22; and a dog collar attachment means 20 attached to the inner end 19 of the second strap portion 28. However, McPhail is silent about using buckles.

Moulton teaches a dog leash that employs a buckle 427 having first and second side members and cross member extending between and attached to the first and second side members, the buckle fastened ends of the strap/leash 420.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a buckle with side and cross members as taught by Moulton in place of the ring of McPhail, since the buckle is notoriously well known in the art for fastening ends of strap members together.

For claim 3, in addition to the above, Moulton's buckle is non-releasable. Therefore, the combination of McPhail as modified by Moulton teaches the buckles being non-releasable.

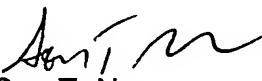
***Allowable Subject Matter***

6. **Claims 14-16** are allowed upon correction the claim objection for minor informalities as stated above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn